

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

LOCKHEED MARTIN TRANSPORTATION  
SECURITY SOLUTIONS, AN OPERATING UNIT  
OF LOCKHEED MARTIN CORPORATION,

Plaintiff,

-against-

MTA CAPITAL CONSTRUCTION COMPANY and  
METROPOLITAN TRANSPORTATION  
AUTHORITY,

Defendants.

No. 09 CV 4077 (PGG)(GWG)

**AFFIDAVIT OF  
HOWARD SAFIR**

TRAVELERS CASUALTY AND SURETY  
COMPANY OF AMERICA, FEDERAL INSURANCE  
COMPANY, and SAFECO INSURANCE COMPANY  
OF AMERICA,

Plaintiffs,

-against-

METROPOLITAN TRANSPORTATION  
AUTHORITY, MTA CAPITAL CONSTRUCTION  
COMPANY, NEW YORK CITY TRANSIT  
AUTHORITY, and LOCKHEED MARTIN  
CORPORATION,

Defendants.

No. 09 CV 6033 (PGG)(GWG)

STATE OF MARYLAND                    )  
  ) ss.:  
COUNTY OF WORCESTER            )

Howard Safir, being duly sworn, hereby deposes and says:

1. I submit this affidavit as my direct testimony in the trial of this action, as a witness for Defendants Metropolitan Transportation Authority and MTA Capital Construction Company (collectively “MTA”).

2. The opinions expressed herein are my own, and are expressed within a reasonable degree of professional certainty.

3. I submitted my initial expert report, titled “Expert Report: Evaluation of the Lack of Required Functionality in the System Provided by Lockheed Martin on MTA Contract C-52038,” on June 17, 2011. It is marked as MTAX1053.

4. I also submitted a rebuttal expert report, titled “Expert Report: Response to ‘Initial Expert Report Concerning Physical Security Technology Integration and Testing’ as prepared for Duane Morris LLP on behalf of Plaintiff Lockheed Martin Transportation Security Solutions, an Operating Unit of Lockheed Martin Corporation by Aella Consulting Group, Inc. and Louis T. DeStefano, Inc. on June 2, 2011,” on November 6, 2012. It is marked as MTAX1053

### **BACKGROUND**

5. I have been involved in law enforcement, emergency management and the security industry for almost 50 years. From my years of experience in these positions, I am thoroughly familiar with the threats, vulnerabilities and risks that face the New York City area and the various systems necessary to protect its people and assets from security incidents.

6. Since retiring from government service in 2000, I have worked as a security and risk mitigation consultant (from 2001 until April 2010 as Chairman and CEO of SafirRosetti; from April 2010 to the present day as Chairman and CEO of Vigilant Resources International). In this role, I have directed the implementation of electronic security and emergency

management systems, and I have created and implemented plans for security and emergency management policies and procedures for our clients. Such clients have included KeySpan (now National Grid), the New York Yankees (New Yankee Stadium), and the New York Jets/Giants (New Meadowlands Stadium).

7. During my time in the private sector, I have also been Special Advisor to the Chairman of ChoicePoint (2000-2005), and an active board member for Verint Technologies, Lexis Nexis Special Services Inc. and Implant Sciences Corporation. In my role as a board member, I have exposure to data management and its intersection with information and intelligence to support the operation of electronic security and emergency management systems.

8. From 1996 to 2000, I served as the 39<sup>th</sup> Police Commissioner of the New York City Police Department. I was responsible for the protocols, procedures and actions pertaining to how sworn officers interacted with various electronic security and emergency management systems, including the 911 Center (which included dispatch and call intake for over a million calls a year for assistance in emergency situations), the closed-circuit TV systems that were installed in many of the public housing developments in New York City, and the NYPD radio system that communicated between our 6,000 vehicles, 26 boats and 7 helicopters. While I was at NYPD I was involved in the procurement and installation of a number of technology programs, including an inventory control system for evidence.

9. From 1994 to 1996 I served as the 29<sup>th</sup> Fire Commissioner of the New York City Fire Department. I was responsible for the protocols, procedures and actions pertaining to how FDNY responders interacted with various electronic emergency management systems, including the six emergency dispatch centers and the CAD system that connected them, the radio system

that connected the 276 fire houses and their vehicles and the EMS computer system and radio system. I was also involved in the procurement of an automated dispatch system for the FDNY.

10. From 1984 to 1990, I served as the Associate Director for Operations of the United States Marshals Service. I was responsible for the CCTV systems, perimeter alarms, radio systems and access control systems for the 94 federal judicial districts and the hundreds of facilities in those districts, including the witness security facilities throughout the nation.

11. From 1979 to 1984, I served as the Director of the Federal Witness Security Program. From 1965 through 1979, I had various roles with the Drug Enforcement Administration and its predecessor agencies, the FBN and BNDD.

### **MY TASK AND METHODOLOGY**

12. I was asked to provide an opinion on whether the IESS/C3 System that Lockheed provided to the MTA (the “System”) under Contract C-52038 for the design, development, furnishing and installation of an Integrated Electronic Security System and Security Operations (C3) Center (the “IESS Project” or “Project”) provided the functionality demanded by MTA in its Request for Proposal, and whether what Lockheed provided compared to what was specified in any way impacts the safety and security of the MTA’s passengers, employees and assets. In particular, I looked at how the System that Lockheed provided would impact the safety of the people of New York City and its surrounding areas, and MTA’s assets and operations.

13. To do this, I first reviewed the IESS Contract to see the specifications of the System that Lockheed was supposed to provide to MTA. I also reviewed the MTA’s Comprehensive Threat Risk Vulnerability Assessment Report, which has been marked as MTAX3 (the “TRV Assessment”). The TRV Assessment categorized and measured threats, risk and vulnerabilities to the MTA by the likelihood of various types of incidents occurring and the

corresponding number of casualties, amount of property damage and length of disrupted operations.

14. I then looked at the Project's testing records to see which requirements were still in a non-passed state at the time that Lockheed was defaulted. I had my team at Guidepost Solutions (the successor company to SafirRosetti) and Vigilant Resources International categorize the non-passed requirements so that I could assess the various types of functionality that had not been fully achieved by the Lockheed System.

15. I also conducted numerous interviews with MTA Police Department and agency safety officials involved in the management of the design and installation of the System after Lockheed's termination, and its subsequent operation and functionality.

16. I also observed the System at the MTAPD Central C3 Center at Long Island City and the Long Island Rail Road Regional C3 center at the Jamaica Station Complex several times.

The people I interviewed included:

- a. Joseph Christen, MTACC
- b. Ronald Pezik, MTACC
- c. Kenneth Shields, URS
- d. Terrence Feters, Parsons
- e. Shirsh Gupte, Parsons
- f. William Morange, MTAPD
- g. Ronald Masciana, MTAPD
- h. Ernest Pucillo, MTAPD
- i. William Coan, MTAPD
- j. Ray McDermott, MTAPD
- k. Leonard Viviano, MTAPD
- l. Howard Reith, Dnutch
- m. Robert Murphy, LIRR
- n. John Highland, LIRR
- o. Sean Ryan, MNR
- p. April Panzer, MNR

### **MY OPINION**

17. In my opinion, based on my analysis and my expertise, the System that Lockheed provided is wholly inadequate. It is missing many of the key functionalities that MTA had requested, and which are necessary to effectively use the System as it was intended to be used. Because of the problems with the System that Lockheed provided, the System is nowhere near as effective as it was supposed to be, and MTA has had to attempt to make up for these security deficiencies with other costly methods. I found that Lockheed never satisfied hundreds of important technical requirements, and as of the time of my inspection of the System, the required functionality still did not exist in the System.

18. Based on my review of what Lockheed provided, and what Lockheed was supposed to provide, it is clear to me that what Lockheed supplied to the MTA does not function in a manner even reasonably close to what was specified in the Contract, and does not provide a level of functionality that would be considered acceptable in the security industry.

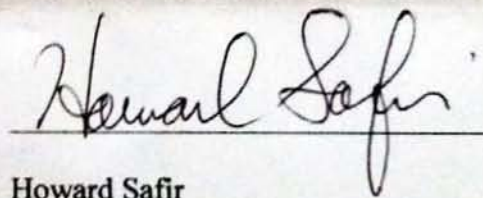
### **MY REBUTTAL REPORT**

19. I was asked to review and respond to the expert report submitted by Aella Consulting Group and Louis T. DeStefano (the “Aella/DeStefano Report”). I disagree with many of its fundamental assumptions and conclusions. The basis for my disagreement is set forth in further detail in my rebuttal report and its footnotes, which has been marked as MTAX1053.

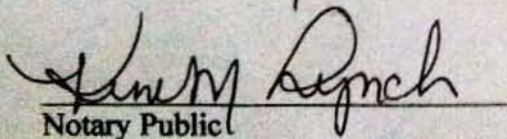
20. I considered the following sources of information when rendering my opinion: my direct observations of the System at various times at Long Island City and the Jamaica Station Complex; the Project RFP and Contract (including Lockheed’s proposal response to the RFP); the Project test records; interviews of MTA personnel and contractors (listed above); the

Concept of Operations and Business Rules documents; the Aella/DeStefano Report; the expert report by Howard Reith of Dnutch, and the assistance of my staff at Vigilant Resources International and Guidepost Solutions.

21. In my opinion, based on my expertise and analysis of the Aella/DeStefano Report, I disagree with the conclusions reached in the Aella/DeStefano Report. The System provided by Lockheed did not provide the necessary elements of a security system: real-time decision making, situational awareness, forensic capabilities, system security and reliability, and interoperability between MTA agencies and police, fire and medical responders from NYPD and FDNY. It also fails to provide MTA with a way to appropriately and thoroughly train its security operators. What the MTA received from Lockheed was not even close to "good enough" compared to what was required by the Contract. The consequences of Lockheed's failure to deliver the System are highly significant and potentially very serious.

  
Howard Safir

Sworn to before me this  
9<sup>th</sup> day of July, 2014

  
Notary Public

